Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board	)	
on Universal Service	)	CC Docket No. 96-45
	)	
Recommendations for Phasing Down	)	FCC 00J-1
Interim Hold-Harmless Provision	)	

JOINT REPLY

The National Exchange Carrier Association, Inc. (NECA), National Rural Telecom Association (NRTA), and Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) (collectively the Associations) jointly submit this reply to comments in the matter captioned above.[1]

In their Joint Comments, the Associations supported the Joint Board recommendation to maintain long term support (LTS) under current Commission rules,[2] urged the Commission to revise or eliminate section 54.305 of its rules, to assure sufficient support for serving customers in transferred high-cost exchanges,[3] and urged the Commission to immediately lift the current cap on the high cost fund. The

[1] *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Recommended Decision*, FCC 00J-1 (rel. June 30, 2000)(*Recommended Decision*).

[2] *See* Joint Comments of NECA, NRTA, and OPASTCO, CC Docket No. 96-45, FCC 00J-1 (filed Aug. 14, 2000)(*Joint Comments*) at 2-4.

[3] *See id.* at 5-7.

Associations asserted that, if the cap is continued, it must be calculated without regard to any phase-down of hold-harmless support, as the Joint Board recommended.[4]

In its Comments, AT&T disagrees with the Joint Board recommendation that interim hold-harmless support for high-cost exchanges transferred to rural carriers should not be phased down following the transfer.[5] AT&T claims that this recommendation is at odds with the purpose of the rule, and, therefore, the Commission should decline to amend section 54.305.[6] AT&T states that section 54.305 "is meant to discourage carriers from transferring exchanges merely to increase their share of high-cost universal service support"[7] while the Commission implements a transition to its forward-looking economic cost (FLEC) model for high-cost support. AT&T claims that, because the Commission's FLEC model assigns either no support or a lower amount of support than the hold-harmless amount to a non-rural exchange, there is no reason for the rural buyer of that exchange to receive the higher hold-harmless amount.[8] AT&T's rationale for this assertion is that "section 54.305 does *not* prevent the acquiring carrier form [sic] receiving support related to the costs of providing the supported service."[9] AT&T further

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[4] *See id.* at 7-8.

[5] *See* AT&T Comments at 2, citing *Recommended Decision* at ¶ 21.

[6] *See id.*

[7] *See id.* at 2-3.

[8] *See id.*

[9] *See id.* at 4 (emphasis in original).

posits that the Commission's FLEC model provides "sufficient support", irrespective of whether an exchange is operated by a non-rural carrier or transferred to a rural carrier.[10]

However, AT&T is simply incorrect. As the Joint Board recognized,[11] and the Associations demonstrated in Joint Comments, section 54.305 operates to provide *insufficient* support in such transactions between non-rural and rural carriers.[12] This is so because of the complex interaction of section 54.305's restriction on the level of the buyer's high-cost support to that of the seller; the development of costs under the FLEC model; and the calculation and distribution of support under that model. The Associations illustrated this problem by analyzing and describing these combined effects on high-cost support in a recent real-world transaction between a non-rural and rural carrier. In the example, the Associations showed that, because of the mechanics of the Commission's new non-rural high cost funding system, the acquired lines are not eligible for high cost support from the model, despite the fact that the FLEC model itself produces over $66 in monthly loop costs. Because the lines in the subject exchange are

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[10] *See id.*

[11] *See Recommended Decision* at ¶ 20. The Joint Board expressed its concern about section 54.305 because it "prevents the acquiring carrier from receiving an amount of support *related to the costs* of providing supported services in the transferred exchange"(emphasis added).

[12] The Commission stated in its recent report on advanced services deployment that it will review the rule limiting support for acquired exchanges. The Commission "will consider whether alternative transfer rules might encourage rural carriers to purchase rural exchanges from large incumbent LECs and to upgrade the acquired facilities to accommodate the provision of advanced telecommunications services." *See* Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146, FCC 00-290 (rel. Aug. 21, 2000) at ¶ 267.

not eligible for high-cost support under Commission rules (specifically, section 54.305), they receive only $3.15 per line, per month, in interim hold-harmless funding.[13] Even that amount will evaporate as interim hold-harmless support phases down.[14]

The Associations share the Joint Board's well-founded concern that section 54.305 does not allow rural carriers to receive *sufficient* support as required by section 254 of the Telecommunications Act. The unintended result, of course, is that rural carriers acquiring such high cost exchanges from non-rural carriers have little hope of obtaining sufficient high cost funding to improve these exchanges. This result undoubtedly will retard the advancement of universal service. Thus, the Associations again urge the Commission to reconsider the actual effects that section 54.305's limitation on high cost support is having on customers living in outlying high cost exchanges. Since the rule limits universal service development, the Commission must revise or eliminate the rule.

In its comments, Worldcom recognizes the need to retain LTS for non-rural carriers, and disconnect LTS from hold-harmless calculations, observing the Joint Board's view that "the Commission's new high cost mechanism does not replace LTS for the few non-rural carriers that currently receive LTS."[15] Worldcom states it has no

[13] *See Joint Comments* at 6-7.

[14] The Wyoming Public Service Commission also graphically demonstrated the same negative effect of the Commission's FLEC model on competition and universal service in Wyoming markets. "According to the Commission's own models, the specific Wyoming wire center costs range from about $1,400 to $23 per line, yet [] are only receiving an average of about $1.63 per line in support." *See* Comments of Wyoming Public Service Commission at 5.

[15] *See* Worldcom comments at 3-4.

objection to continuing LTS to eligible carriers. Worldcom observes that the Joint Board rationale for continuing LTS "is valid for only those carriers that legitimately remain in the NECA pool." [16] The need to preserve hold harmless support arises only for pool members, in fact, because LTS is provided only to carriers in NECA's common line pool.

In *Joint Comments*, the Associations stated they shared the Joint Board's concern that phasing out LTS for eligible non-rural carriers would result in a precipitous NECA carrier common line rate increase, affecting all pool members and their interstate access customers (including Worldcom, for example).[17] However, as the Associations pointed out, this potential rate effect on rural LTS recipients will be avoided if LTS simply is removed from the hold-harmless phase-down mechanism.

Finally, the Associations again call on the Commission to remove the "interim" cap on high cost funding immediately. If continued, the cap must be calculated without regard to the phase-down in hold-harmless support, as the Joint Board recommended.[18] Unless this correction is made, all rural carriers' support will be artificially reduced, contrary to the Commission's intent. Still, the Associations firmly believe that the better

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[16] *See* Worldcom comments at 3-4.

[17] *See Joint Comments* at 4.

[18] *See Recommended Decision* at ¶¶ 18-21.

solution is to remove the "interim" cap entirely. This step alone will do more to benefit rural customers, most in need of funding for meeting the cost of basic telephone services.

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